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REMARKS

The claims have not been amended.

Claims 4, 10, 12-14, 17-23 and 29 remain pending in the application. Reconsideration and allowance of all of the claims are respectfully requested in view of the following remarks.

In the Office Action, the Examiner rejected claims 4, 10, 12-14, 17-23 and 29 under 35 U.S.C. 103(a) as being unpatentable over Matsuura in view of Katsuoka. Applicants respectfully disagree.

Referring to the rejection, Examiner states "[b]ased on the teachings of Katsuoka, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the ATV of Matsuura to have front footrest positioned below rear footrest to provide support for a passenger's foot." Examiner, however, is incorrect.

Matsuura is directed to an "ATV" (title), whereas Katsuoka is directed to a "Motorcycle" (title). With respect to this invention, it would not be apparent to a person skilled in the art of ATV design to incorporate teachings from the art of motorcycle design. This is because stability is a prime concern of standard ATV designers. The crucial difference is that ATVs are, as their name suggests, designed for use over rough off-road terrain, whereas most motorcycles and motor scooters are designed for comparatively smooth on-road usage. In use, an ATV will be inclined to a much greater degree, simultaneously in several different planes, and the rate of change and degree of such inclination is much greater. Failing to account for such differences has, in the past, been a great mistake. Three-wheeled ATVs proved to be extremely unstable in certain conditions on certain terrains, and after great numbers of injuries, were completely withdrawn from the market.

In particular, the proper positioning of the center of mass of an ATV is an important consideration to ensure that the ATV remains stable and does not tip or roll over when it encounters rough terrain. A person skilled in the art of ATV design would generally desire a lower center of gravity to ensure stability in these situations. Positioning a rear footrest higher than a front footrest, while an acceptable design choice for a motorcycle, would not be obvious to a person skilled in the art of ATV design because it would raise the center of gravity of the passenger, and therefore raise the center of gravity of the vehicle while in

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operation. Adding a passenger to a standard one-person ATV, such as by affixing a seat to the rear of the vehicle, is known to destabilize the vehicle by shifting the total center of gravity upward and rearward. ATV manufacturers typically warn owners against adding a passenger in this manner, because of the inherent dangers thereof. Two-person ATVs according to the prior art have been designed with driver and passenger footrests at the same height. The addition of a passenger to an ATV inherently raises the total center of gravity of the vehicle, and it would be known in the art to minimize the impact of this effect as much as possible.

It is only through the exercise of inventive skill that the Applicants became aware of the possibility of designing an ATV supporting a driver and a passenger, with the footrest configuration recited in the claims, and also acceptably stable for use on rough terrain. Such a design modification would not have been obvious to an ordinary person skilled in the art, except with the benefit of hindsight after referring to the present application.

A person skilled in the art of ATV design would therefore not be motivated to refer to Katsuoka, a reference directed to motorcycles, to modify Matsuura, a reference directed to ATVs, to produce the claimed invention. Indeed, a person skilled in the art of ATV design would avoid incorporating such teachings from the art of motorcycle design in this area, because this has historically been a counterproductive and dangerous approach. As such, Applicant submits that Examiner has not established the three basic criteria for a *prima facie* case of obviousness under MPEP 2143, and the rejection of claims 4, 10, 12-14, 17-23 and 29 should be withdrawn.

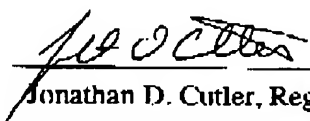
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In view of the above remarks, the Applicant respectfully submits that all of the currently pending claims are allowable and that the entire application is in condition for allowance.

Should the Examiner believe that anything further is desirable to place the application in a better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,


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